

Mail Stop Interference
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Filed 24 August 2009

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Thomas W. Oakes,
Junior Party
(Application 10/785,234),

v.

GM Global Technology Operations, Inc.,
Senior Party
(Patent 7,459,065

Inventors: Nelson A. Kelly and Thomas L. Gibson).

Patent Interference No. 105,692 (RES)
(Technology Center 1700)

REDECLARATION – 37 C.F.R. § 41.203(c)

- 1 The parties have stipulated certain matters (Paper 17):
- 2 1. GM Global Technology Operations (GM GTO) should be
- 3 accorded the benefit of its provisional application No. 60/545,374,
- 4 filed on February 18, 2004;
- 5 2. GM GTO should be designated the Senior Party under 37
- 6 C.F.R. § 41.201;
- 7 3. Oakes should be designated the Junior Party under 37 C.F.R.
- 8 § 41.201; and

1 4. This interference should proceed to the priority phase without
2 having a motions phase.

3 Pursuant to the stipulations, the authorization to file substantive
4 motions other than priority motions is withdrawn, and this interference is
5 redeclared as follows:

6 **Junior Party**

7 Named Inventor: Thomas W. Oakes

8 Involved Application: 10/785,234

9 Title: System and Method for Generating
10 Hydrogen Gas Using Renewable
11 Energy

12 Assignee: None

13 **Senior Party**

14 Named Inventors: Nelson A. Kelly
15 Thomas L. Gibson

16 Involved Patent: 7,459,065

17 Title: Hydrogen Generator Photovoltaic
18 Electrolysis Reactor System

19 Assignee: GM Global Technology Operations,
20 Inc.

21 The senior party is assigned exhibit numbers 1001-1999. The junior
22 party is assigned exhibit numbers 2001-2999. 37 C.F.R. § 41.154(c)(1); SO
23 ¶ 154.2.1. The senior party is responsible for initiating settlement
24 discussions. SO ¶ 126.1.

25 **Count 1**

26 Claim 5 Oakes Application 10/785,234 or Claim 34 of GM Patent
27 7,459,065.

1 **The claims of the parties:**

2 Application 10/785,234: Claims: 1, 3-20, 23-27, 29-35

3 Patent: 7,459,065: Claims: 1-36

4 **The claims of the parties corresponding to Count 1:**

5 Application 10/785,234: Claims: 1, 3-20, 23-27, 29-35

6 Patent: 7,459,065: Claims: 1-30, 34-36

7
8 **The claims of the parties that do not correspond to Count 1, and**
9 **therefore are not involved in the interference:**

10 Application 10/785,234: Claims: None

11 Patent: 7,459,065: Claims: 31-33

12 **The parties are accorded the following benefit for Count 1:**

13 Application 10/785,234: None

14 Patent: 7,459,065: Application 60/545,374, filed on
15 February 18, 2004.

16 The parties also proposed a schedule for the priority phase which has
17 been substantially adopted.

18 **Time periods associated with priority**

19 The TIME PERIODS described below are set out in an Appendix to
20 this ORDER. Action specified for each TIME PERIOD must be completed
21 by the date specified for the TIME PERIOD.

22 The parties are authorized to stipulate different times (earlier or later,
23 but not later than TIME PERIOD 17) for TIME PERIODS 11 through 16.

24 A notice of the stipulation must be promptly filed. The notice must be in the
25 form of a photocopy of the Appendix attached to this ORDER with old dates
26 crossed out and new dates inserted by hand. The parties may not stipulate an
27 extension of TIME PERIODS 17-19.

28 1. **TIME PERIOD 11**

29 The junior party must:

- 1 a. File and serve a motion on priority and
- 2 b. Serve but not file evidence in support of the junior party
- 3 priority case. If the junior party does not file a priority motion,
- 4 the junior party must arrange a conference call to the
- 5 administrative patent judge so that appropriate action may be
- 6 taken.
- 7 2. TIME PERIOD 12
- 8 The senior party must:
- 9 a. File and serve a motion on priority and
- 10 b. Serve but not file evidence in support of the senior party
- 11 priority case.
- 12 3. TIME PERIOD 13
- 13 a. File and serve oppositions to all priority motions and
- 14 b. Serve but do not file evidence in support of these oppositions.
- 15 4. TIME PERIOD 14
- 16 a. File and serve replies to all oppositions and
- 17 b. Serve but do not file evidence in support of these replies.
- 18 5. TIME PERIOD 15
- 19 a. File and serve any request for oral argument on priority,
- 20 b. File and serve motions to exclude evidence (Bd.R. 155(c); SO
- 21 & 155.2),
- 22 c. File and serve observations on cross examination (SO & 157.7)
- 23 of reply testimony, and
- 24 d. File and serve a list of any issues other than priority that should
- 25 be considered in rendering a final decision in the interference.

1 6. TIME PERIOD 16

2 a. File and serve oppositions to an opponent's motion to exclude
3 evidence and

4 b. File and serve any response to observations.

5 7. TIME PERIOD 17

6 File and serve replies to oppositions to motions to exclude evidence.

7 **Deposition transcripts**

8 Transcripts of cross examinations and depositions taken under 35

9 U.S.C. § 24 must be served, but not filed until the exhibits are filed.

10 **Serving priority exhibits**

11 An exhibit, including an affidavit, relied upon in connection with
12 priority must be served but not filed with the motion, opposition, reply or
13 affidavit in which the exhibit is first mentioned.

14 **TIME PERIOD 18: Filing the priority record**

15 1. File original set of your exhibits and a CD-ROM or DVD-ROM copy
16 of your exhibits;

17 2. For your priority motion, file one folder containing a set of motion
18 documents consisting of:

19 a. The priority motion,

20 b. Any corresponding opposition,

21 c. Any corresponding reply,

22 d. Any corresponding observations, and

23 e. Any corresponding response to the observations.

24 3. File a CD-ROM or DVD-ROM including electronic copies of the
25 documents listed in 2. If an oral argument is requested, file two additional
26 copies of the CD-ROM or DVD-ROM.

27

1 **TIME PERIOD 19: Tentative oral argument date**

2 If a request for oral argument (37 C.F.R. § 41.124(a); TIME PERIOD
3 15) is granted, the tentative date for such oral argument is TIME PERIOD
4 19. No oral argument will occur if either no oral argument is requested or
5 granted.

/Richard E. Schafer/
Administrative Patent Judge

cc (electronic delivery):

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Appendix--ORDER – 37 C.F.R. § 41.123(a)
(Times for priority motions)

Interference 105,692 (RES)

- 1
2
3
4 TIME PERIOD 11 **September 28, 2009**
5 Junior party only file priority motion and serve
6 (but do not file) priority evidence
7 TIME PERIOD 12 **September 28, 2009**
8 Senior party only file priority motion and serve
9 (but do not file) priority evidence
10 TIME PERIOD 13 **December 21, 2009**
11 File opposition to priority motions
12 Serve (but do not file) opposition evidence
13 TIME PERIOD 14 **February 1, 2010**
14 File reply
15 Serve (but do not file) reply evidence
16 TIME PERIOD 15 **March 15, 2010**
17 Request oral argument
18 File list of issues to be considered
19 File observations
20 File motion to exclude
21 TIME PERIOD 16 **March 15, 2010**
22 File response to observations
23 File opposition to motion to exclude
24 TIME PERIOD 17 **April 19, 2010**
25 File reply to opposition to motion to exclude
26 TIME PERIOD 18 **April 26, 2010**
27 File and serve exhibits
28 File sets of priority motions
29 File CD-ROMs
30 TIME PERIOD 19 **May 10, 2010**
31 Tentative oral argument date (if ordered)